

National Credit Union Administration

§ 709.3

AUTHORITY: 12 U.S.C. 1757, 1766, 1767, 1786(h), 1787, 1788, 1789, 1789a.

SOURCE: 56 FR 56925, Nov. 7, 1991, unless otherwise noted.

§ 709.0 Scope.

The rules and procedures in this part apply to charter revocations of federal credit unions under 12 U.S.C. 1787(a)(1)(A), (B), the involuntary liquidation and adjudication of creditor claims in all cases involving federally-insured credit unions, the treatment by the Board as conservator or liquidating agent of financial assets transferred in connection with a securitization or participation or of public funds held by a federally-insured credit union, and the allowance of prepayment fees to Federal Home Loan Banks under specified conditions. Remaining sections of this part are applicable to all federally insured credit unions. This part does not apply to share insurance claims arising out of the liquidation of a federally insured credit union. Insurance claims are decided pursuant to part 745 of this chapter.

[56 FR 56925, Nov. 7, 1991, as amended at 65 FR 55442, Sept. 14, 2000; 66 FR 11230, Feb. 23, 2001; 66 FR 40575, Aug. 3, 2001]

§ 709.1 Definitions.

For the purposes of this part, the following definitions apply:

(a) *General Counsel* means the General Counsel of the National Credit Union Administration or any attorney assigned to the General Counsel's staff.

(b) *Liquidating Agent* means the NCUA Board or person(s) appointed by it with delegated authority to carry out the liquidation of the credit union.

(c) *Insolvent* means insolvency as that term is defined in § 700.1(j) of this chapter.

(d) *Claim* means a creditor's claim against the credit union in liquidation. This term does not include insurance claims arising out of the liquidation of a federally insured credit union. Insurance claims are decided pursuant to part 745 of this chapter.

(e) *Shareholder* means members, non-members, accountholders or any other party or entity that is the owner of a share, share certificate or share draft account or the equivalent of such accounts under state law.

§ 709.2 NCUA Board as liquidating agent.

(a) The Board, as liquidating agent, by operation of law and without any conveyance or other instrument, act or deed, shall succeed to all the rights, titles, powers, and privileges of the credit union, and of its shareholders, officers, and directors, with respect to the credit union and its assets, and such shareholders, officers, or directors, shall not thereafter have or exercise any such rights, powers, or privileges or act in connection with any assets or property of any nature of the credit union.

(b) The Board, as liquidating agent, shall take possession of and title to books, records, and assets of every description of such credit union to which such credit union has rights of possession and title to all offices and other facilities of such credit union.

§ 709.3 Challenge to revocation of charter and involuntary liquidation.

If a Federal credit union is determined to be insolvent and placed into liquidation pursuant to 12 U.S.C. 1787, the Federal credit union may, not later than 10 days after the date on which the Board closes the credit union for liquidation, apply to the United States District Court for the Judicial district in which the principal office of the credit union is located or the United States District Court for the District of Columbia for an order requiring the Board to show cause why it should not be prohibited from continuing such liquidation. Notwithstanding other provisions of this part, the board of directors of the credit union may meet following the placing of the institution into liquidation for the sole purpose of considering and authorizing the filing of this action in the name of the credit union. No such action in the name of the credit union may be instituted without the authorization of the board of directors of the institution pursuant to a valid board of directors resolution. No credit union funds shall be available to pay expenses incurred in bringing a legal action to challenge the Board's liquidation action.